

Foreclosure in Michigan

What laws govern the foreclosure process in Michigan?

Generally, there are two primary methods of foreclosing on a mortgage in Michigan: foreclosures by **Judicial Action** (MCLA 600.3101) and those by **Advertisement** (MCLA 600.3201).

By Judicial Action

Lenders file a lawsuit in circuit court asking the court to declare the real estate or land contract in default. The outstanding debt is then determined by the difference between the funds received by resale of the property and the remaining mortgage balance, together with interest, fees, attorney fees, and costs of suit. Judicial action requires lenders to provide evidence of the mortgagee's (defaulting buyer's) delinquent status. This method of foreclosure also provides a mortgagee the right to pay the principal, interest due and any other costs either prior to the entry of judgment, which results in the dismissal of the case, or after sale, which stops the transfer of the property to the buyer unless future default occurs, which may reinstate the sale. This form of foreclosure can take up to a year to complete.

By Advertisement

A mortgage that includes a power of sale enables a lender to begin the process of foreclosure by advertisement. This process is the most common form of foreclosure and generally takes about six weeks to complete. This process begins when a lender publishes a notice to foreclose once a week for four consecutive weeks in a newspaper of general circulation in the county where the property is located or an adjacent county. The property is then sold at a public auction to the highest bidder by the county sheriff. A lender is not responsible for providing evidence that the mortgagee has defaulted on the mortgage by not agreeing to its terms.

Where can I find homes that are being foreclosed in Kalamazoo County?

The Climax Crescent newspaper, published in nearby Climax, Michigan, lists properties that are to be auctioned. The listings are by plat address, not common address.

Are lenders required to tell the mortgagee that they are planning to foreclose?

No. Lenders are advised to make the mortgagee aware of the foreclosure, but they are not required to do so by law.

Does a lender have to post a copy of the published notice on the foreclosed property?

Yes. According to MCLA 600.3208, "within 15 days after the first publication of the notice in a newspaper, a true copy shall be posted in a conspicuous place upon any part of the premises described in the notice."

What must the notice of foreclosure disclose?

According to MCLA 600.3212, the notice must include:

- The names of the mortgagor, the original mortgagee, and the foreclosing assignee, if any;
- The date of the mortgage and the date the mortgage was recorded;
- The amount claimed to be due on the mortgage on the date of the notice;
- A description of the mortgaged premises that substantially conforms with the description contained in the mortgage;
- The length of the redemption period as determined under MCLA 600.3240 for a mortgage executed on or after January 1, 1965.

Where do foreclosure sales take place in Kalamazoo County?

Sales are transacted at the Kalamazoo County Clerk's office, 201 W. Kalamazoo Ave.

This information is not intended to be a substitute for legal advice or representation. Talk with an attorney if you have questions about how this information applies to your own situation.

December 2006, courtesy of Robert Davidoff, esq.



KALAMAZOO
PUBLIC
LIBRARY

www.kpl.gov